

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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In the Matter of)
Public Interest Obligations)
of TV Broadcast Licensees)

MM Docket No. 99-360

To: The Commission

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MAR 27 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**COMMENTS OF NATIONAL MINORITY T.V., INC.
ON NOTICE OF INQUIRY**

National Minority T.V., Inc., the licensee of Station KNMT(TV), Portland, Oregon, ("NMTV"), hereby submits its Comments on the Notice of Inquiry ("NOI") in the above-referenced proceeding, FCC 99-390, released by the Commission on December 20, 1999.

1. The NOI seeks the views of broadcasters on how best to implement the public interest standard during and after the transition to digital technology. Specifically, the Commission wishes to consider how broadcasters can meet their public interest obligations on both their analog and digital channels during the transition period and how broadcasters can better serve their communities of license.

2. NMTV is a minority controlled nonprofit nonstock company that has owned Station KNMT(TV) since 1988. NMTV's President is an African American woman who has been involved in the broadcasting industry since the late 1970s. Station KNMT(TV) has a strong track record of having minority employees and has worked hard to serve the minority residents of its service area.

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3. At the outset, there is no evidence that broadcasters have failed to serve the public interest. Indeed, the National Association of Broadcasters has provided the Commission with ample evidence of the numerous ways in which broadcasters have served their communities.

4. It is also important to note that the transition to digital technology is a very costly endeavor, particularly for a small minority-owned nonprofit company. NMTV anticipates spending a substantial amount of money on the equipment that will be needed to implement digital television and it will spend additional sums on the technical and legal help that will be necessary during the transition. It is very unclear what benefits, if any, NMTV will receive after expending the money necessary to implement digital television. Therefore, NMTV appreciates the concerns about the NOI expressed by Commissioners Powell and Furchgott-Roth. For instance, Commissioner Powell commented in his Concurring Statement to the NOI that "...it seems to me premature to attempt to fix public interest obligations to a service that has yet to blossom" and "I recoil somewhat from the view that the transition to digital (and its putative commercial value to broadcasters) justifies consideration of new and expansive public interest duties." Commissioner Furchgott-Roth stated that "[t]he NOI fails to acknowledge the current critical stage of the broadcast industry. The industry faces many difficult and expensive challenges in moving into the digital age. The Commission should focus its attention on maximizing the public benefits from the promises of digital broadcasting, not creating new regulatory burdens that may slow down that process."

5. NMTV submits that the Commission should not impose numerous new public interest obligations on television broadcasters. In this connection, it is significant that the Commission has already imposed substantial new and burdensome regulatory requirements

relating to the EEO obligations of broadcasters (MM Docket No. 98-204) and television broadcasters' responsibilities to negotiate retransmission consent agreements with satellite carriers and other multichannel video program distributors (MM Docket No. 99-363). The duties required of television broadcasters in just these two recent rulemaking proceedings will occupy a significant amount of time on the part of licensees and their staffs.¹ It will be unfair, if not next to impossible, for minorities, females and small businesses to continue to operate if the Commission continues to impose greater and greater regulatory burdens. At a minimum, the Commission should give careful consideration to exempting small minority and female owned licensees as well as noncommercial educational licensees from burdensome new requirements.

6. In addition, the Commission should remember that television broadcasters are only going to have an analog and a digital channel during the transition period. At the end of that period, they will be left with only their digital channel. Since programming for the most part will be simulcast during the transition period, stations will be airing the same news, public affairs and other public interest programming on both channels. Under these circumstances, there is simply no need for extra requirements. With respect to the issue of whether public service obligations attach to the digital channel as a whole or to each of the program streams, NMTV submits that the issue cannot be considered until the future when it can be determined what kind of programming is being aired. However, to the extent that broadcasters are paying for using their digital channels for subscription programming, additional public interest obligations should not attach.

¹ These new requirements have come into existence subsequent to the recommendations of the Advisory Committee Report referenced in the NOI.

7. The NOI refers to the Advisory Committee recommendations that the Commission should require broadcasters to augment their quarterly issues/programs lists by including such enhanced disclosures as “contributions to political discourse, public service announcements, children’s and educational programing, local programming, programming that meets the needs of underserved communities, and community-specific activities.” However, some of these areas are already covered by items in the public file. For instance, television broadcasters are required to place in the public file on a quarterly basis and file annually with the FCC children’s programming reports which describe the educational and informational children’s programming they air. Television broadcasters also place in their file on a quarterly basis a list of programs they have aired that meet ascertained community needs and interests. It is common for such lists to contain examples of programming that meets the needs of underserved communities. To the extent that the Advisory Committee suggests that additional materials should be placed in the public file, NMTV submits that such requirements would be burdensome and antithetical to the deregulatory measures the Commission took in the 1980s.

In sum, NMTV urges the Commission to permit digital television to evolve before imposing substantial new regulatory burdens and to bear in mind that additional regulatory requirements are most oppressive to those small broadcasters, including minorities and females, whom the Commission claims it wishes to encourage.

Respectfully submitted,

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Dated: March 27, 2000

CERTIFICATE OF SERVICE

I, Karleen Lamie, a secretary in the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., do hereby certify that true copies of the foregoing **“COMMENTS OF NATIONAL MINORITY T.V., INC. ON NOTICE OF INQUIRY”** were hand-delivered this 27th day of March, 2000 to the following:

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